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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,638	06/19/2001	Thomas E. Ricciardelli	2601.102	4310

7590 10/06/2003

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Trumbull, CT 06611

EXAMINER
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TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/884,638

Applicant(s)

RICCIARDELLI, THOMAS E.

Examiner

Phi D A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Objections***

1. Claims 21, 23 are objected to because of the following informalities:

Claim 21 line 7 “axis an upwardly” is improper. Should it be “axis, an upwardly”?

Claim 23 line 3 “steps each step” is improper. Should it be “steps, each step”?

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin (5907934) in view of Costantino (6119423).

Austin (figure 3) shows a floor tile assembly having a plurality of mutually adjacent tiles (80) composed of a substantially resilient plastic material (col 1 lines 24-26) and mechanically interlocked along the side and end edges thereof for adhesively free mounting to an underlying surface, each of the tiles having an elongated base of substantially solid rectangular cross section of substantially equal width and thickness (figure 5) and having a longitudinal axis, an upwardly facing top and a downwardly facing bottom surface (figure 5) and first and second substantially linear peripheral edges forming substantially straight borders (80, figure 3), a pair of first rows of open sided substantially resilient interlock structures (93, 95) molded in the base extending parallel to and adjacent to different ones of the first and second edges, the interlock structures of

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each first row facing opposite upward or downward respective directions and being comprised of male projections (95) and adjacent open side female cavities (93) having shapes being sized substantially as inverted images of one another, the open side of the interlock structure adjacent the first side edge facing downwards in the direction of the bottom surface is disposed to engage an underlying upwardly facing mating interlock structure of another adjacent tile (figure 3) by applying force from the top surface of the base, a second row of interlock structures on each of the base end edges for interlocking the base edges of substantially similar inverted interlock structures on the base edges of adjacent tile of the assembly.

Austin does not show a plurality of transverse stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the base ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile.

Costantino (figure 6A) shows a plurality of stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile to enable forming a floor surface with different pleasing visual effect.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Austin to show a plurality of transverse stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the base ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile because it would enhance the

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visual surface of the tile by giving the surface the effect of multiple wood floor planks being assembly together as taught by Costantino.

Per claim 23, Austin as modified by Costantino shows the transversely stepped end surface on each tile being formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions.

Per claim 24, Austin as modified by Costantino (figure 6A) shows the step staircases being positioned inverted relative to a central plane through a said base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end.

Per claim 25, Austin as modified by Costantino shows a plurality of top longitudinal grooves, each groove aligning with a longitudinal portion of a step and its opposite counterpart.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Austin (5907934) in view of Costantino (6119423) as applied to claim 21 above and further in view of Ormiston (5755068).

Austin as modified by Costantino shows all the claimed limitations except for a decorative layer adhering to the tope surface of each tile simulating a section of a wood floor.

Ormiston (figure 2) shows a decorative layer adhering to the top surface of each tile (12) simulating a section a wood floor to enhance the appearance of the floor.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Austin's modified structure to show a decorative layer adhering to the tope surface of each tile simulating a section of a wood floor because it would enhance the appearance of the floor as taught by Ormiston.

*Response to Arguments*

4. Applicant's arguments with respect to claims 21-25 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior shows different tile designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A  
October 1, 2003

PA

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*